

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In Re:

Case No. 17-22123-GLT

BROWNSVILLE BERG ASSOCIATES,
INC.,

Chapter 7

Debtor.

Doc No. _____

Hon. Gregory L. Taddonio

URBAN REDEVELOPMENT AUTHORITY
OF PITTSBURGH,

Movant,

v.

BROWNSVILLE BERG ASSOCIATES,
INC.,

Response Date:

Hearing Date:

Respondent.

**MOTION OF THE URBAN REDEVELOPMENT AUTHORITY OF
PITTSBURGH FOR ORDER AUTHORIZING THE URA TO SECURE AND
STABILIZE THE BROWNSVILLE ROAD PROPERTY PURSUANT TO 11 U.S.C. § 105**

Creditor the Urban Redevelopment Authority of Pittsburgh (the “URA”), by and through its attorneys, Fox Rothschild LLP, hereby files this motion (the “Motion”) requesting entry of an order authorizing the URA to secure and stabilize 2531 Brownsville Road, Pittsburgh, Pennsylvania 15210 (the “Brownsville Road Property” or “Property”) pursuant to 11 U.S.C. § 105 (the “Motion”). In support of the Motion, the URA represents as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The statutory predicates for relief requested herein is Section 105(a).

3. On May 19, 2017 (the “Petition Date”), Brownsville Berg Associates, Inc. (the “Debtor”), filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

4. On June 5, 2017, the Debtor filed with the Court Docket No. 18, Official Form 206D: *Creditors Who Have Claims Secured by Property* (“Doc. No. 18”). At page 12 of Doc. No. 18, the Debtor admitted that the URA has a lien on Debtor’s property at 2531 Brownsville Road, Pittsburgh, Pennsylvania 15210 (the “Property”) in an unknown amount.

5. On October 17, 2017, URA filed a contingent and unliquidated Proof of Claim with this Court, which was listed as Claim No. 6 on the Court’s Claims Register (“Claim No. 6”). URA incorporates Claim No. 6 here as if fully stated herein.

BACKGROUND

6. The City of Pittsburgh (the “City”) has reported to the URA that the Property is in very poor condition and presents a public hazard. Among other things, the garages at the rear of the Property are in danger of collapsing and may need to be taken down.

7. The structure of the Property needs to be stabilized to avoid further danger to the Public.

8. Moreover, while the Property has no utilities or running water, it has become a place where calls to police regarding the congregation of homeless persons and drug activity have occurred. In fact, the police responded to the serious report of a person being thrown off of a second floor balcony and potential suicide attempts at the Property.

9. On September 5, 2019, Maura Kennedy, Director of the City’s Department of Permits, Licenses and Inspection, wrote to the URA giving notice of the continued hazardous

condition of the Property and offering support for the URA's effort to secure and stabilize the Property (the "PLI Letter"). A true and correct copy of the PLI Letter is attached hereto as Exhibit "A".

10. As stated in the PLI Letter, the "current condition of the Property and the danger posed by its current accessibility and condition, necessitate immediate intervention." See Exhibit A.

11. The current condition of the Property includes squatters illegally "removing from the first floor boards on entrances and windows" to gain access to the Property. This raises concerns of fire—especially as winter approaches. Id.

12. The PLI Letter also notes that the Property has "significantly overdue code compliance" issues and "substantial public safety hazards." Id.

13. Consequently, the City and the URA are desirous of stabilizing and securing the Property to protect the safety of the Public posed by the deteriorating and unsafe conditions at the Property.

14. The Chapter 7 Trustee has consented to the relief requested in this Motion.

RELIEF REQUESTED

15. The URA incorporates by reference the above paragraphs 1 through 14 as if fully stated herein.

16. By this Motion, the URA seeks the entry of an order authorizing URA, as secured creditor, to secure and stabilize the Property pursuant to 11 U.S.C. § 105.

17. Section 105(a) of the Bankruptcy Code provides that:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any

determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a).

18. The Property is an asset of the Debtor's bankruptcy estate and under the protection of this Court. *See*, 11 U.S.C. §§ 362(a) and 541(a).

19. In order to prevent the Property from further damage, public nuisance and danger, URA is offering by this Motion to secure and stabilize the Property at its own expense, thereby further assisting the Court and the Trustee in protecting an asset of the estate. The work to secure and stabilize the Property may include razing the garages and/or building a security fence. The URA reserves the right to lien the property for the cost of the work.

20. The Chapter 7 Trustee does not object to the relief requested herein.

NOTICE

21. The URA will serve notice of this Motion, and any hearing and objection deadline, on the United States Trustee, Chapter 7 Trustee, the Debtor, counsel to the Debtor, and all parties who requested notice pursuant to Fed. R. Bankr. P. 2002 *via* the Court's ECF System and/or United States mail, first class and postage prepaid.

CONCLUSION

WHEREFORE, the Urban Redevelopment Authority of Pittsburgh respectfully requests that this Court enter an order in substantially the form attached hereto authorizing the URA to use reasonable efforts to secure and stabilize the Property and granting such other and further relief as is just.

Dated: September 20, 2019

Respectfully Submitted,

s/ John R. Gotaskie, Jr.

John R. Gotaskie, Jr. (Pa. I.D. 81143)

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion of Urban Redevelopment Authority of Pittsburgh (URA) for Order Authorizing the URA to Secure and Stabilize the Brownsville Road Property Pursuant to 11 U.S.C § 105 and Notice of Hearing and Response Deadline Regarding Motion of Urban Redevelopment Authority of Pittsburgh (URA) for Order Authorizing the URA to Secure and Stabilize the Brownsville Road Property Pursuant to 11 U.S.C § 105 was served upon all parties via the Court's ECF system and/or First Class, U.S. Mail on the 20th day of September, 2019 as follows:

Service by Electronic Notification

James R. Walsh, Esquire
Email: jwalsh@spencecuster.com
Kevin J. Petak, Esquire
Email: kpetak@spencecuster.com
Spence, Custer, Saylor, Wolfe & Rose, LLC
1067 Menoher Boulevard
Johnstown, PA 15905

Service by First Class Mail

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County of Allegheny, City & School District
of Pittsburgh, and Pittsburgh Water & Sewer
Authority
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s/ John R. Gotaskie, Jr.

John R. Gotaskie, Jr., Esquire

Counsel for Movant, Urban Redevelopment

Authority of Pittsburgh